

Representative Jefferson Moss proposes the following substitute bill:

SCHOOL TRUST FUND MODIFICATIONS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jefferson Moss

Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends provisions related to school and institutional trust fund management, advocacy, and distribution of funds.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions related to board meetings and funding the office operations of the School and Institutional Trust Fund Office;
- ▶ amends provisions related to funding the office operations of the Land Trusts Protection and Advocacy Office;
- ▶ amends provisions related to the Trust Distribution Account;
- ▶ amends provisions related to the School LAND Trust Program;
- ▶ repeals outdated provisions; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **53D-1-203**, as enacted by Laws of Utah 2014, Chapter 426

29 **53D-1-304**, as last amended by Laws of Utah 2018, Chapter 448

30 **53D-2-204**, as enacted by Laws of Utah 2018, Chapter 448

31 **53F-2-404**, as last amended by Laws of Utah 2018, Chapter 448 and renumbered and
32 amended by Laws of Utah 2018, Chapter 2

33 **53F-9-201**, as last amended by Laws of Utah 2018, Chapter 448 and renumbered and
34 amended by Laws of Utah 2018, Chapter 2



36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **53D-1-203** is amended to read:

38 **53D-1-203. Funding of office operations.**

39 (1) As used in this section, "trust fund earnings" includes any of the following that is in
40 excess of the trust fund corpus:

41 (a) realized or unrealized gains;

42 (b) interest;

43 (c) dividends;

44 (d) other income; or

45 (e) other sources of revenue.

46 ~~[(1)]~~ (2) There is created an enterprise fund known as the School and Institutional
47 Trust Fund Management Account.

48 ~~[(2)]~~ (3) The account is funded by money deposited into the account as provided in
49 Subsection ~~[(3)]~~ (4).

50 ~~[(3)]~~ (4) ~~[The]~~ Except as provided in Subsection (5)(b), the director shall deposit into
51 the account an amount of money from the ~~[earnings from]~~ trust fund ~~[assets]~~ earnings equal to
52 the annual appropriation that the Legislature makes to the office, to pay for the office's
53 operating costs.

54 ~~[(4)]~~ (5) (a) The office may use money in the account to pay for the office's operating
55 costs.

56 (b) If the amount of money deposited into the account under Subsection ~~[(3)]~~ (4) in any

57 fiscal year exceeds the amount required by the office during that fiscal year to fund [its] the
 58 office's operations, the office [shall distribute that excess money proportionately to the various
 59 funds established for the beneficiaries of land grants under the enabling act, based on the
 60 balances of those funds as of June 30] shall, in the following fiscal year, reduce the amount
 61 deposited into the account under Subsection (4) by the amount of the unspent appropriation.

62 ~~[(5)] (6) (a) [Before distributing earnings from trust fund assets, the]~~ The office may
 63 deduct from trust fund earnings:

64 (i) the cost for any audit, risk management, consulting, equipment, legal[, and
 65 custodial costs and management] services, software, research, or custodial services; or
 66 (ii) manager fees incurred in managing the trust fund assets.

67 (b) The costs and fees described in Subsection [(5)] (6)(a) are separate from and in
 68 addition to the office's operating costs that are paid from the account.

69 Section 2. Section **53D-1-304** is amended to read:

70 **53D-1-304. Board meetings.**

71 (1) The board shall hold at least six meetings per year to conduct business.

72 (2) The board chair or two board members:

73 (a) may call a board meeting; and

74 (b) if calling a board meeting, shall provide as much advance notice as is reasonable
 75 under the circumstances to all board members, the director, and the advocacy office director.

76 (3) Any board member may place an item on a board meeting agenda.

77 (4) The board shall ~~annually~~ adopt a set of parliamentary procedures to govern board
 78 meetings.

79 (5) The board may establish an attendance policy to govern the attendance of board
 80 members at board meetings.

81 Section 3. Section **53D-2-204** is amended to read:

82 **53D-2-204. Land Trusts Protection and Advocacy Account -- Funding of**
 83 **advocacy office operations.**

84 (1) As used in this section:

85 (a) "Account" means the Land Trusts Protection and Advocacy Account created in this
 86 section.

87 (b) "School and Institutional Trust Fund Office director" or "SITFO director" means

88 the director of the School and Institutional Trust Fund Office, appointed under Section
89 [53D-1-401](#).

90 (c) "Trust fund" means the same as that term is defined in Section [53D-1-102](#).

91 (d) "Trust fund earnings" means the same as that term is defined in Section [53D-1-203](#).

92 (2) There is created an enterprise fund known as the Land Trusts Protection and
93 Advocacy Account.

94 (3) The account is funded by money deposited into the account as provided in
95 Subsection (4).

96 (4) (a) ~~[During a fiscal year]~~ Except as provided in Subsection (4)(c), the SITFO
97 director shall deposit into the account a total amount of money, taken proportionately from
98 trust fund ~~[assets]~~ earnings according to the value of the various funds established for the trust
99 beneficiaries, that is equal to the annual appropriation that the Legislature makes to the
100 advocacy office.

101 (b) The advocacy office may use money in the account to pay for the advocacy office's
102 operating costs.

103 (c) If the amount of money deposited into the account under Subsection (4)(a) in any
104 fiscal year exceeds the amount required by the advocacy office during that fiscal year to fund
105 advocacy office operations, the SITFO director ~~[shall distribute the excess money~~
106 ~~proportionately to the various funds established for the trust beneficiaries, based on the~~
107 ~~balances of those funds as of June 30]~~ shall, in the following fiscal year, reduce the amount
108 deposited into the account under Subsection (4)(a) by the amount of the unspent appropriation.

109 Section 4. Section **53F-2-404** is amended to read:

110 **53F-2-404. School LAND Trust Program distribution of funds.**

111 ~~[(1) (a) The School LAND Trust Program, established in Section [53G-7-1206](#), shall be~~
112 ~~funded each fiscal year:]~~

113 ~~[(i) from the Trust Distribution Account created in Section [53F-9-201](#); and]~~

114 ~~[(ii) in the amount of the sum of the following:]~~

115 ~~[(A) on or about July 15 each year, out of the distributions from the investment of~~
116 ~~money in the permanent State School Fund deposited to the Trust Distribution Account; and]~~

117 ~~[(B) interest accrued on the Trust Distribution Account in the immediately preceding~~
118 ~~fiscal year.]~~

119 (1) (a) By appropriation the Legislature shall fund the School LAND Trust Program,
120 established in Section 53G-7-1206, on or before July 31 of each fiscal year:

121 (i) from the Trust Distribution Account, created in Section 53F-9-201; and

122 (ii) except as provided in Subsection (1)(b), in the total amount of the quarterly
123 deposits made to the Trust Distribution Account for the School LAND Trust Program during
124 the prior fiscal year.

125 (b) ~~[The program shall be funded as provided in Subsection (1)(a) up to an]~~ The
126 amount described in Subsection (1)(a)(ii) may not exceed an amount equal to 3% of the funds
127 provided for the Minimum School Program, [pursuant to] in accordance with this chapter, each
128 fiscal year.

129 ~~[(c) The Legislature shall annually allocate, through an appropriation to the State Board~~
130 ~~of Education, a portion of the Trust Distribution Account created in Section 53F-9-201 to be~~
131 ~~used for the administration of the School LAND Trust Program.]~~

132 (c) Independently from the appropriation for the School LAND Trust Program
133 described in Subsection (1)(a), the Legislature shall make an annual appropriation to the State
134 Board of Education from the Trust Distribution Account, created in Section 53F-9-201, for the
135 administration of the School LAND Trust Program.

136 (d) Any unused balance remaining from an amount appropriated under Subsection
137 (1)(c) shall be deposited in the Trust Distribution Account ~~[for distribution to schools in the~~
138 ~~School LAND Trust Program].~~

139 (2) (a) The State Board of Education shall allocate the money referred to in Subsection
140 (1)(a) annually as follows:

141 (i) the Utah Schools for the Deaf and the Blind shall receive funding equal to the
142 product of:

143 (A) enrollment on October 1 in the prior year at the Utah Schools for the Deaf and the
144 Blind divided by enrollment on October 1 in the prior year in public schools statewide; and

145 (B) the total amount available for distribution under Subsection (1)(a);

146 (ii) charter schools shall receive funding equal to the product of:

147 (A) charter school enrollment on October 1 in the prior year, divided by enrollment on
148 October 1 in the prior year in public schools statewide; and

149 (B) the total amount available for distribution under Subsection (1)(a); and

150 (iii) of the funds available for distribution under Subsection (1)(a) after the allocation
151 of funds for the Utah Schools for the Deaf and the Blind and charter schools:

152 (A) school districts shall receive 10% of the funds on an equal basis; and

153 (B) the remaining 90% of the funds shall be distributed to school districts on a per
154 student basis.

155 (b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
156 the State Board of Education shall make rules specifying a formula to distribute the amount
157 allocated under Subsection (2)(a)(ii) to charter schools.

158 (ii) In making rules under Subsection (2)(b)(i), the State Board of Education shall:

159 (A) consult with the State Charter School Board; and

160 (B) ensure that the rules include a provision that allows a charter school in the charter
161 school's first year of operations to receive funding based on projected enrollment, to be
162 adjusted in future years based on actual enrollment.

163 (c) A school district shall distribute its allocation under Subsection (2)(a)(iii) to each
164 school within the school district on an equal per student basis.

165 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
166 State Board of Education may make rules regarding the time and manner in which the student
167 count shall be made for allocation of the money under Subsection (2)(a)(iii).

168 [~~(3) If the amount of money prescribed for funding the School LAND Trust Program
169 under this section is less than or greater than the money appropriated for the School LAND
170 Trust Program, the appropriation shall be equal to the amount of money prescribed for funding
171 the School LAND Trust Program in this section, up to a maximum of an amount equal to 3%
172 of the funds provided for the Minimum School Program.]~~

173 [~~(4) The State Board of Education shall distribute the money appropriated in
174 Subsection (3) in accordance with this section and rules established by the board in accordance
175 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

176 Section 5. Section **53F-9-201** is amended to read:

177 **53F-9-201. Uniform School Fund -- Contents -- Trust Distribution Account.**

178 (1) As used in this section:

179 (a) "Annual distribution calculation" means, for a given fiscal year, the average of:

180 (i) 4% of the average market value of the State School Fund for that fiscal year; and

181 (ii) the distribution amount for the prior fiscal year, multiplied by the sum of:
182 (A) one;
183 (B) the percent change in student enrollment from the school year two years prior to
184 the prior school year; and
185 (C) the actual total percent change of the consumer price index during the last 12
186 months as measured in June of the prior fiscal year.
187 (b) "Average market value of the State School Fund" means the results of a calculation
188 completed by the SITFO director each fiscal year that averages the value of the State School
189 Fund for the past 12 consecutive quarters ending in the prior fiscal year.
190 (c) "Consumer price index" means the Consumer Price Index for All Urban
191 Consumers: All Items Less Food & Energy, as published by the Bureau of Labor Statistics of
192 the United States Department of Labor.
193 (d) "SITFO director" means the director of the School and Institutional Trust Fund
194 Office appointed under Section [53D-1-401](#).
195 (e) "State School Fund investment earnings distribution amount" or "distribution
196 amount" means, for a fiscal year, the lesser of:
197 (i) the annual distribution calculation; or
198 (ii) 4% of the average market value of the State School Fund.
199 ~~[(+)]~~ (2) The Uniform School Fund, a special revenue fund within the Education Fund,
200 established by Utah Constitution, Article X, Section 5, consists of:
201 (a) distributions derived from the investment of money in the permanent State School
202 Fund established by Utah Constitution, Article X, Section 5;
203 (b) money transferred to the fund pursuant to Title 67, Chapter 4a, Revised Uniform
204 Unclaimed Property Act; and
205 (c) all other constitutional or legislative allocations to the fund, including revenues
206 received by donation.
207 ~~[(2)]~~ (3) (a) There is created within the Uniform School Fund a restricted account
208 known as the Trust Distribution Account.
209 ~~[(b) The Trust Distribution Account consists of the average of:]~~
210 ~~[(i) 4% of the average market value of the permanent State School Fund based on an~~
211 ~~annual review each July of the past 12 consecutive quarters; and]~~

212 ~~[(ii) the prior year's distribution from the Trust Distribution Account as described in~~
213 ~~Section [53F-2-404](#), increased by prior year changes in the percentage of student enrollment~~
214 ~~growth and in the consumer price index.]~~

215 ~~[(3) Notwithstanding Subsection (2)(b), the distribution may not exceed 4% of the~~
216 ~~average market value of the permanent State School Fund over the past 12 consecutive~~
217 ~~quarters.]~~

218 (b) The Trust Distribution Account consists of:

219 (i) in accordance with Subsection (4), quarterly deposits of the State School Fund
220 investment earnings distribution amount from the prior fiscal year;

221 (ii) all interest earned on the Trust Distribution Account in the prior fiscal year; and

222 (iii) any unused appropriation for the administration of the School LAND Trust
223 Program, as described in Subsection [53F-2-404\(1\)\(c\)](#).

224 (4) If, at the end of a fiscal year, the Trust Distribution Account has a balance
225 remaining after subtracting the appropriation amount described in Subsection [53F-2-404\(1\)\(a\)](#)
226 for the next fiscal year, the SITFO director shall, during the next fiscal year, apply the amount
227 of the remaining balance from the prior fiscal year towards the current fiscal year's distribution
228 amount by reducing a quarterly deposit to the Trust Distribution Account by the amount of the
229 remaining balance from the prior fiscal year.

230 (5) On or before October 1 of each year, the SITFO director shall:

231 (a) in accordance with this section, determine the distribution amount for the following
232 fiscal year; and

233 (b) report the amount described in Subsection (5)(a) as the funding amount, described
234 in Subsection [53F-2-404\(1\)\(c\)](#), for the School LAND Trust Program, to:

235 (i) the State Treasurer;

236 (ii) the Legislative Fiscal Analyst;

237 (iii) the Division of Finance;

238 (iv) the director of the Land Trusts Protection and Advocacy Office, appointed under
239 Section [53D-2-203](#);

240 (v) the School and Institutional Trust Lands Administration created in Section
241 [53C-1-201](#);

242 (vi) the State Board of Education; and

243 (vii) the Governor's Office of Management and Budget.
244 [~~(4)~~] (6) The School and Institutional Trust Fund Board of Trustees created in Section
245 53D-1-301 shall:
246 (a) annually review [~~distribution of the Trust Distribution Account~~] the distribution
247 amount; and
248 (b) make recommendations, if necessary, to the Legislature for changes to the formula
249 [~~described in Subsection (2)(b)~~] for calculating the distribution amount.
250 (5) [~~(a)~~] Upon appropriation by the Legislature, the SITFO director [~~of the School and~~
251 ~~Institutional Trust Fund Office created in Section 53D-1-201~~] shall place in the Trust
252 Distribution Account funds for [~~(i) the administration of~~] the School LAND Trust Program as
253 described in [~~Sections~~] Subsections 53F-2-404(1)(a) and [53G-7-1206;] (c).
254 [~~(ii) the School and Institutional Trust Fund Office; and~~]
255 [~~(iii) the School and Institutional Trust Fund Board of Trustees created in Section~~
256 53D-1-301;]
257 [~~(b) The Legislature may appropriate any remaining balance for the support of the~~
258 public education system.]